

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES – GENERAL

Case No. LA CV10-01031 JAK (RZx)

Date March 26, 2012

Title United States of America v. Aurora Las Encinas, LLC, et al.

Present: The Honorable JOHN A. KRONSTADT, UNITED STATES DISTRICT JUDGE

Andrea Keifer

Alexander Joko

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiff:

Attorneys Present for Defendants:

Colleen Flynn

Patrick Hooper

Rebecca A. Craemer

Alan Gilchrist

Debra Spicer

**Proceedings: DEFENDANTS SIGNATURE HEALTHCARE SERVICES, LLC AND
AURORA LAS ENCINAS, LLC'S MOTION TO DISMISS PLAINTIFF'S
FOURTH AMENDED COMPLAINT (Dkt. 157)**

**DEFENDANTS AURORA LAS ENCINAS, LLC AND LINDA PARKS'
MOTION TO DISMISS FIRST AND SECOND CLAIMS FOR RELIEF OF THE
FOURTH AMENDED COMPLAINT (Dkt. 158)**

SCHEDULING CONFERENCE

The motion hearing is held. The Court states its tentative view on the record, and is inclined to deny the motions to dismiss. The Court acknowledges that the parties disagree regarding whether Plaintiff properly states a claim for worthless services, which is recognized as a cause of action, or alleges only non-compliance with conditions of participation, which is not recognized as the basis for a False Claims Act ("FCA") claim. Nonetheless, the Court has addressed this argument previously, and states its view that, to the extent that there is overlap between Plaintiff's worthless services theory and Plaintiff's allegations of violations of conditions of participation as support for that claim, the Court cannot adjudicate this issue at the motion to dismiss stage. Thus, fact issues are presented.

Counsel for Plaintiff and Defendants address the Court regarding the issues it raises, including: (i) whether the Fourth Amended Complaint ("FAC") alleges sufficient facts with the requisite particularity regarding Parks' involvement in the wrongful conduct; (ii) whether Plaintiff has alleged any particular false claims that were actually submitted to the government for reimbursement; (iii) whether Plaintiff's claims are consistent with the relevant appellate authority regarding inadequate services versus worthless services; (iv) whether Plaintiff complied with the Court's prior Order and excluded allegations pertaining to private pay patients; (v) the status of pending discovery efforts and disputes; and (vi) whether Defendants can answer the FAC before Magistrate Judge Zarefsky rules on certain evidentiary and discovery issues which may relate to the answers to the complaint.

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The Court adheres to its tentative view and DENIES the motions to dismiss. The parties state that their discovery motions will be heard by Magistrate Judge Zarefsky on April 23, 2012. Thus, the Court sets a status conference for May 7, 2012 at 1:30 p.m., with a status report to be filed on or before May 3, 2012. If Magistrate Judge Zarefsky has not ruled on the pending discovery motions at such time, the Court will consider postponing the status conference. The Court instructs Defendants to answer the complaint on or before April 16, 2012.

The scheduling conference is continued to May 7, 2012 at 1:30 p.m.

IT IS SO ORDERED.

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